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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,503	09/30/2003	Mark E. Peters	RSW920030081US1 (101)	6041
46320 7590 07/07/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487				
EXAMINER				
FIELDS, BENJAMIN S				
ART UNIT		PAPER NUMBER		
3692				
MAIL DATE		DELIVERY MODE		
07/07/2008		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,503
Filing Date: September 30, 2003
Appellant(s): PETERS ET AL.

Scott D. Paul (Reg. No. 44,725)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 June 2008 appealing from the Office action mailed 30 April 2008.

(1) Real Party of Interest

A statement identifying by name the real party of interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0032616	Suzuki et al.	3-2002
2002/0107755	Steed et al.	8-2002
6,873,974	Schutzer	3-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US PG Pub. No. 2002/0032616), [hereinafter Suzuki] in view of Steed et al. (US PG Pub. No. 2002/0107755), [hereinafter Steed].

Referring to Claim 1: Suzuki discusses a mobile commerce system comprising: a plurality of mobile server wallets each wallet having an association with a corresponding subscriber in a wireless service provider network (Suzuki: Abstract; Figures 3-4, 6-7; Page 1, Paragraphs 0002, 0006, 0008, 0011-0012, 0014; Page 2, Paragraphs 0024, 0027; 0030; Page 3, Paragraphs 0031-0038; Page 4, Paragraph 0049; See Claims//Suzuki teaches a system and method which facilitate the transactions between multiple mobile server wallet's//); [a relay server [proxy server] disposed in said wireless service provider network (Suzuki: Figures 2-3; Page 2, Paragraph 0017; Page 3, Paragraph 0048//Suzuki discloses a system which possesses a relay server [which operates as a content proxy server]//); and a filter plug-in coupled to said proxy server and configured to intercept selected payment messages flowing

through the proxy server and to route said payment messages to selected ones of said mobile server wallets (Suzuki: Figures 3-7; Page 1, Paragraph 0009; Page 3, Paragraphs 0031-0038; Page 4, Paragraphs 0049-0051//Suzuki discusses plug-in software included in order to route messages regarding payment transactions within the system//).

Suzuki, however, does not expressly show a proxy server disposed in said wireless service provider network.

Steed, in a similar environment, discusses a proxy server disposed [with] in [a] said wireless service provider network (Steed: Abstract; Page 1, Paragraph 0003-Page 2, Paragraph 0014).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Suzuki for a relay server method and payment system with the disclosure of Steed for a server based electronic wallet system by including a proxy server for the purpose of automatically completing/filling-in forms relating to purchasing, etc. on behalf of a customer (Steed: Page 1, Paragraphs 0003-0013) for the benefit of speeding up the process as well as prevention of input errors.

Referring to Claim 2: Suzuki teaches a mobile commerce system further comprising a plurality of profiles communicatively linked to said filter plug-in, each of said profiles specifying a merchant configured to engage in mobile commerce transactions through said wireless service provider network (Suzuki: Figures 3-7; Page 2, Paragraph 0030), said filter plug-in having a further configuration for routing said payment messages to said selected ones of said mobile server wallets when a source

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of said payment messages matches a merchant identity specified in at least one of said profiles (Suzuki: Figures 2-7; Page 2, Paragraph 0030-Page 3, Paragraph 0038; Page 3, Paragraph 0048-Page 4, Paragraph 0049).

Furthermore, the Examiner notes that it is old and well known in the art [of wireless/mobile commerce, etc.] to preferably create a system that attaches a profile which would correspond to each transaction of a filter plug-in in order to monitor the transactional history of exchanges which occur via the system.

Referring to Claim 3: Suzuki discloses a mobile commerce system wherein individual mobile server wallets are disposed in at least one of an Internet service provider server, said wireless service provider network server, a merchant server, a financial institution server and a portal server (Suzuki: Page 3, Paragraph 0031-Page 4, Paragraph 0053).

Referring to Claim 4: Suzuki shows a mobile commerce system wherein at least one of said profiles further comprises a specification of a markup language able to be processed in said filter plug-in (Suzuki: Page 4, Paragraphs 0049-0057).

Referring to Claim 5: Suzuki discusses a method for processing mobile commerce transactions in a wireless service provider network, the method comprising the steps of: filtering payment messages flowing between merchants and subscribers to the wireless service provider network to identify specific payment messages associated with specific subscribers in the wireless service provider network; and routing filtered ones of said payment messages to specified mobile server wallets associated with said specific subscribers (Suzuki: Page 3, Paragraph 0031-Page 5, Paragraph 0065).

Referring to Claim 6: Suzuki teaches a method further comprising the steps of: consulting filters which specify specific ones of said merchants (Suzuki: Figures 3-7; Page 1, Paragraph 0009; Page 3, Paragraphs 0031-0038; Page 4, Paragraphs 0049-0051//Suzuki discusses plug-in software included in order to route messages regarding payment transactions within the system//); and intervening in purchase transactions originating in said merchants (Suzuki: Page 3, Paragraphs 0031-0038; Page 3, Paragraph 0048-Page 5, Paragraph 0071).

Suzuki, however, does not expressly discuss a method comprising the step of monitoring message traffic flowing from said merchants.

The Examiner notes that it is old and well known in the art to preferably include a means to monitor message traffic/history within a system as taught by Suzuki in order to better utilize network resources and gain better throughput.

Referring to Claim 7: The Examiner notes the routing within a mobile commerce system as shown in Suzuki to be old and well known in the art. Subscribers, whom are affiliated within a network typically, receive network access/privileges whether or not they are inside or outside of the network; at times, other neighboring networks will allow access/borrowing of its resources (roaming, etc.).

Referring to Claim 8: Suzuki discloses a method wherein said routing step comprising routing filtered ones of said payment messages to specified mobile server wallets associated with said specific subscribers and selected by said specific subscribers (Suzuki: Figure 3; Page 2, Paragraph 0024; Page 3, Paragraph 0031-Page 5, Paragraph 0067).

Referring to Claim 9: Claim 9 parallels the limitations of Claims 1 and 5. As such, Claim 9 is rejected under the same basis as are Claims 1 and 5 as mentioned supra.

Referring to Claim 10: Claim 10 reflects the limitations of Claim 6. As such, Claim 10 is rejected under the same basis as is Claim 6 as mentioned supra.

Referring to Claim 11: Claim 11 parallels the limitations of Claim 7. As such, Claim 11 is rejected under the same basis as is Claim 7 as mentioned supra.

Referring to Claim 12: Claim 12 reflects the limitations of Claim 8. As such, Claim 12 is rejected under the same basis as is Claim 8 as mentioned supra.

(10) Response to Argument

Appellants argue:

1. As is evident from Appellants' previously-presented comments during prosecution of the present Application and from Appellants' comments below, there are questions as to how the limitations in the claims correspond to features in the applied prior art. In this regard, reference is made to M.P.E.P. § 1207.02, entitled "Contents of Examiner's Answer." Specifically, the following is stated:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items: (9)(e) For each rejection under 35 U.S.C. 102 or 103 where there are questions as to how limitations in the claims correspond to features in the prior art even after the examiner complies with the requirements of paragraphs (c) and (d) of this section, the examiner must compare at least one of the rejected claims feature by feature with the prior art relied on in the rejection. The comparison must align the language of the claim side-by-side with a reference to the specific page, line number, drawing reference number, and quotation from the prior art, as appropriate. (emphasis added)

Therefore, if the Examiner is to maintain the present rejections and intends to file an Examiner's Answer, the Examiner is required to include the aforementioned section in the Examiner's Answer.

As noted in the First Appeal Brief dated April 8, 2008, the Examiner failed to specifically identify the teachings being relied upon in the rejection as required under with 37 C.F.R. §1.104(c). Previously, the Examiner rejected the claims under 35 U.S.C. § 102 for anticipation based upon Suzuki, whereas in the current rejection the Examiner is relying upon Suzuki to teach most of the claim limitations and Steed to teach "a proxy server disposed in said wireless service provider (see lines 3-4 on page 4 of the Third Office Action). However, despite citing different and/or additional passages within Suzuki, the Examiner's analysis in the Third Office Action still fails to clearly explain the pertinence of Suzuki.

1. The Examiner responds in detail below:

The Examiner wishes to clarify the matter as to which reference is being relied upon to teach the limitation: "a proxy server disposed in said wireless service provider network". While the third office action does, at Page 3, 'seemingly' show a reliance on Suzuki in order to show the elements of all the claim language within Claim 1, the Examiner relied upon the combination of both Suzuki and Steed to discuss the limitations found in Claim 1. On Page 3 of the third office action it should be noted that the contents which the examiner did not rely upon within Suzuki were placed in brackets: "**[a relay server [proxy server] disposed in said wireless service provider network (Suzuki: Figures 2-3; Page 2, Paragraph 0017; Page 3, Paragraph 0048//Suzuki discloses a system which possesses a relay server [which operates as a content proxy server]//);]**". The Examiner the relied upon Steed to show this material on Page 4 of the third office action.

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2. Claim 1

On pages 3 and 4 of the Third Office Action, the Examiner asserts that Suzuki teaches the claimed filter plug-in coupled to the proxy server. To teach these limitations, the Examiner asserted that Suzuki teaches "plug-in software in order to route messages regarding payment transaction within the system." Although the Examiner asserts that the plug-in software is identical to the claimed filter plug-in, the Examiner has failed to provide a claim construction for the claim language at issue.

2. The Examiner is unclear as to the Appellants comment "the Examiner has failed to provide a claim construction for the claim language at issue" and while not finding this argument persuasive, discusses the argument in detail below:

As best understood, the Examiner has included a chart below which better discloses the portions of the references which have been relied upon within the rejection on appeal in efforts to further **"provide a claim construction for the claim language at issue"**.

CLAIM & LIMITATION	REFERENCE # 1	REFERENCE # 2
	Suzuki et al. (2002/0032616)	Steed et al. (2002/0107755)
	teaches this limitation at:	teaches this limitation at:
1		
a plurality of mobile server wallets each wallet having an association with a corresponding subscriber in a wireless service provider network;	Abstract; Figs. 3,4,6,7; Pg 1, Para. 2,6,8,11-12,14; Pg 2, Para. 24,27,30; Pg 3, Para. 31-38; Pg 4, Para. 49; Claims	NOT RELIED UPON TO TEACH THIS LIMITATION
a proxy server disposed in said wireless service provider network;	NOT RELIED UPON TO TEACH THIS LIMITATION	Abstract; Pg 1, Para. 3-Pg 2, Para. 14

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a filter plug-in coupled to said proxy server and configured to intercept selected payment messages flowing through the proxy server and to route said payment messages to selected ones of said mobile server wallets	Figs. 3-7; Pg 1, Para. 9; Pg 3, Para. 31-38; Pg 4, Para. 49-51	NOT RELIED UPON TO TEACH THIS LIMITATION
2		
a plurality of profiles communicatively linked to said filter plug-in, each of said profiles specifying a merchant configured to engage in mobile commerce transactions through said wireless service provider network	Figs. 3-7; Pg 2, Para. 30	NOT RELIED UPON TO TEACH THIS LIMITATION
filter plug-in having a further configuration for routing said payment messages to said selected ones of said mobile server wallets when a source of said payment messages matches a merchant identity specified in at least one of said profiles	Figs. 2-7; Pg 2, Para. 30-Pg 3, Para. 38; Pg 3, Para. 48-Pg 4, Para. 49	NOT RELIED UPON TO TEACH THIS LIMITATION

3. As noted by Appellants on page 9, lines 4-6 of the First Appeal Brief, a filter routes certain messages based upon a selection criteria. The plug-in software used to route messages, as taught by Suzuki, does not teach the claimed filtering. Although a router and a filter share certain similarities, they are not identical. As the name implies, a router routes messages. Although a filter can also route messages, the messages being routed are first filtered. As claimed, the filter plug-in is "configured to intercept selected payment messages flowing through the proxy server." As this limitation implies, messages flow through the proxy server and where certain selected messages are intercepted (and then routed) others are not. The Examiner, however, has not

established that the plug-in software described by Suzuki has these filtering capabilities. Thus, the Examiner has failed to properly characterize the scope and content of Suzuki.

3. The Examiner does not find this argument to be persuasive and discusses the argument in detail below:

The Examiner notes that Suzuki shows plug-in software used to route messages; this plug-in software is affiliated or associated with the filtering of messages which are transacted within the system. Furthermore, the instant application, at Claim 1 is drawn to a filter plug-in used to intercept and route messages, as shown by Suzuki. Any additional matters as mentioned here by Appellant are not taught in the claim language of the instant application.

4. As noted on pages 6 and 7 of the First Appeal Brief, the Examiner has failed to factually establish that Suzuki teaches the claimed plurality of mobile server wallets have an association with "a corresponding subscriber in a wireless service provider network," as claimed. Upon reviewing the Examiner's statement of the rejection on page 3 of the Third Office Action, Appellants are still unclear as to exactly what features within Suzuki the Examiner is relying upon to teachings these limitations.

4. The Examiner does not find this argument to be persuasive and discusses the argument in detail below:

The Examiner notes that Suzuki discloses a relay server, relaying method and payment system. Suzuki, at least at the Abstract shows that the system and method as taught is directed towards a mobile server environment at "portable telephone" and a corresponding subscriber at "user". Furthermore, the Examiner requests that Appellant's look to the Figures within Suzuki as well as the chart included above for any additional specific direction in regards these claim limitations.

5. The Examiner's obviousness analysis with regard to Steed is found in the second and third full paragraphs on page 4 of the Third Office Action and are reproduced below: Steed, in a similar environment, discusses a proxy server disposed [with] in [a] said wireless service provider network (Steed: Abstract; Page 1, Paragraph 0003-Page 2, Paragraph 0014). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Suzuki for a relay server method and payment system with the disclosure of Steed for a server based electronic wallet system by including a proxy server for the purpose of automatically completing/filling-in forms relating to purchasing, etc. on behalf of a customer (Steed: Page 1, Paragraphs 0003-0013) for the benefit of speeding up the process as well as prevention of" input errors.

At the outset, Appellants are unclear where Steed teaches that the wallet proxy 14 (presumably corresponding to the claimed proxy server although the Examiner's analysis is unclear as to the particular teachings being relied upon) is disposed within a wireless service provider network, as claimed. Paragraph [0020] of Steed states that the wallet proxy 14 is software that runs on a server connected to WAP gateway 12 or the same server as the WAP gateway 12. However, Appellants have not been able to find a teaching that the wallet proxy is "disposed in said wireless service provider network," as claimed. Thus, the Examiner has also failed to properly characterize the scope and content of Steed.

As to the Examiner's alleged common sense rationale for the combination (i.e., "for the purpose of automatically completing/filling-in forms relating to purchasing, etc. on behalf of a customer"), these alleged benefits are related to use of the electronic wallet (i.e., wallet server 17) and not necessarily to the use of the wallet proxy 14. However, Suzuki already teaches the use of an electronic wallet. Thus, the Examiner's alleged common sense rationale for the proposed combination would not have rendered the combination obvious since the benefits allegedly resulting from this combination are already obtained through the teachings of Suzuki.

5. The Examiner does not find this argument to be persuasive and discusses the argument in detail below:

The Examiner notes that Steed teaches a server-based electronic wallet system. Steed (Abstract; Page 1, Paragraph 0003-Page 2, Paragraph 0014) discloses a proxy server disposed in the network of its disclosure. The Examiner further requests the Appellant's to see figures 1-2, and 6-7 as well as the Claims of Steed for this teaching.

Regarding the common sense rationale discussed supra: The Examiner notes that, even though, according to the Appellant's, due to Suzuki already teaching the use of an e-wallet, "the Examiner's alleged common sense rationale for the proposed combination would not have rendered the combination obvious since the benefits allegedly resulting from this combination are already obtained through the teachings of Suzuki" are in no way misplaced. Simply because Suzuki already teaches the use of an e-wallet does in no way render the combination non-obvious.

6. Claim 2

In the first full paragraph on page 10 of the First Amendment, Appellants presented the following arguments. Dependent claim 2 recites, in part, "a plurality of profiles communicatively linked to said filter plug-in," and to teach this limitation the Examiner cited paragraph [0030]. However, this passage (previously reproduced above) is silent as to a filter plug-in and as to profiles that "[specify] a merchant configured to engage in mobile commerce transactions through said wireless service provider network," as claimed. In this regard, Appellants note that the Examiner's analysis fails to establish why the Examiner believes paragraph [0030] identically discloses this limitation.

Although the Examiner did not directly respond to these arguments in the Second Office Action or the Third Office Action, the Examiner did assert the following in the first

full paragraph on page 3 of the Third Office Action: Furthermore, the Examiner notes that it is old and well known in the art [of wireless/mobile commerce, etc.] to preferably create a system that attaches a profile which would correspond to each transaction of a filter plug-in in order to monitor the transactional history of exchanges which occur via the system.

Not only is the Examiner's allegation as to what is "old and well known in the art" not supported by substantial evidence, the Examiner's allegation does not even correspond to the language of the claims. As claimed, the profiles specify a merchant configured to engage in mobile commerce transactions through the wireless service provider network. However, this is different than what the Examiner asserts is old and well known in the art. Moreover, although the Examiner asserts what is "old and well known in the art" with regard to a filter plug-in, as noted above, the Examiner has not even established that the applied prior art teaches the claimed filter plug-in.

6. The Examiner does not find this argument to be persuasive and discusses the argument in detail below:

The Examiner notes that the use of Official Notice was taken in regards the claim language at hand in conjunction with the teaching of what Suzuki closely discusses as pertinent to the disclosure of the instant application. Furthermore, the Examiner placed reliance not only on paragraph 0030 to teach the claim language in discussion, but also to Figures 3-7 of Suzuki. The Examiner believes that these figures in combination with the mention of the preferable mode discussed in paragraph 0030 to show the claimed language of the instant application at Claim 2.

(11) Related Proceeding(s) Appendix

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Conferees:

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